IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 27TH SEPTEMBER 2006 / 5TH ASWINA 1928

ST.Rev..No. 274 of 2004()

ORDER DT.13.2.2004 TA.483/2003 of S.T.A.TRIBUNAL,ADDL.BENCH,KZD.
ORDER DT.2.5.32003 IN STA. NO.363/2002 OF THE APPELLATE ASST. COMMISSIONER , KANNUR. .....

REVISION PETITIONER/APPELLANT/APPELLANT:

M/S. KERALA IRON & CEMENTS.,
REPRESENTED BY ITS MANAGING PARTNER
B.K. FAISAL, P.O. PERINGATHUR,
THALASSERY, KANNUR DISTRICT.

BY ADV. SRI.P.M.PAREETH

RESPONDENTS: RESPONDENT:

STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.V.V.ASOKAN

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 27/09/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

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S.T.R.V. No.274 of 2004

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Dated this the 27th day of September, 2006.

JUDGMENT

Ramachandran Nair, J.

The question raised is whether the turnover assessed for turnover tax assessment sustained by the Tribunal is justified or not. The only dispute is with regard to disallowance of Rs.1,20,128/- stated to be stock transfer value for consignment sale outside the State. The petitioners themselves returned turnover of above Rs.50 lakhs which attracts TOT and TOT is also paid after assessment. However, their case is that the officer committed mistake in computation of turnover by including the stock transfer value of consignment sale also. Counsel pointed out that the officer in the order itself concedes furnishing of F form and he has granted exemption. When appeal was filed, the Tribunal held that since assessment is based on record and if figure adopted by the officer is incorrect, it was only a rectifiable mistake and not an issue to be decided by the Tribunal in appeal. The petitioner admittedly did not file revised return or file any rectification application. Counsel submitted that the Tribunal should have considered the matter on merits. We do not find anything wrong in the order of the Tribunal because if figure adopted is mistaken, remedy is only filing of rectification application. In fact, in this particular case we are of the view that the assessee should have filed revised return as the turnover disclosed in the return

itself is incorrect according to us. We, therefore, find no merit in the revision case and is therefore dismissed.

C.N.RAMACHANDRAN NAIR
Judge

K.M.JOSEPH
Judge

pms

C.N.RAMACHANDRAN NAIR &
K.M.JOSEH, JJ.

T.R.C. No. of 200

JUDGMENT

Dated